



Serial No. 18
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No.12 of 2024

Date of Hearing: 16.05.2025

Date of Decision: 16.05.2025

Shri. Forget Lyngdoh Phawa
Son of Late B. Chodhuari
Resident of Golflink, Shillong
East Khasi Hills District, Meghalaya

..... Petitioner

-VERSUS-

Smti. Darapbiang Mulieh
Daughter of Smti. I.P. Mulieh
Resident of Khanduli Village
District West Jaintia Hills, Meghalaya

..... Respondent

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. M.F. Qureshi, Adv

For the Respondent(s) : Mrs. N.G. Shylla, Legal Aid Counsel

Order

This revision petition has been preferred against the impugned order dated 06.09.2023 passed by the Additional Judge, Additional District Council Court, Jowai in Title Suit No.9 of 2021.

1. The petitioner husband instituted Title Suit No.9 of 2021 against the respondent wife in the Additional District Council Court, Jowai



praying for a decree of dissolution of marital relationship between them. Upon issuance of notice, the respondent entered appearance before the Trial Court and filed an application under section 21, Order 7 Rule 11 read with section 151 of the Civil Procedure Code seeking rejection of the plaint. The petitioner filed a show-cause against the said application. The learned Trial Court after hearing the parties passed the impugned order dated 06.09.2023 allowing the application filed by the respondent. Assailing the aforesaid order, the petitioner has preferred this revision petition before this Court.

2. Mr. M.F. Qureshi, learned counsel appearing for the petitioner submits that the learned Trial Court has committed a grave error of law by passing the impugned order on the basis of the residential address of the petitioner reflected in the plaint. He submits that it is a settled position that a divorce suit can be instituted in a place where the wife resides and there is no dispute to the fact that the place of residence of the respondent falls within the jurisdiction of Trial Court. He contends that the decision of the Apex Court reported in (2017) 13 SCC 488, *Kyntiew Akor Suchiang v. Woston Hynniewta & anr*, which was relied on by the Trial Court in passing the impugned order is not applicable in the present case in view of the fact that both the parties belong to the schedule tribe community. He submits that the learned Trial Court failed to appreciate the matter in its proper perspective and came to a wrong conclusion. He prays that the impugned order may be set aside and quashed.

3. Mrs. N.G. Shylla, learned Legal Aid Counsel appearing for the respondent supports the impugned order and submits that the decision of the case of *Kyntiew Akor Suchiang (Supra)* was rightly applied by the Trial Court while passing the impugned order. She submits that the place of residence of the petitioner was a relevant consideration for deciding



the application filed by the respondent before the Trial Court and, hence, the impugned order does not suffer from any illegality or infirmity. She submits that there is no merit in the present revision petition and the same is liable to be dismissed.

4. Having heard the learned counsel for the parties and upon perusal of the material on record it appears that the learned Trial Court has passed the impugned order solely on the basis of the place of residence of the parties and not on the consideration of the fact as to whether the parties belong to the Schedule Tribes within such area to which jurisdiction of the Trial Court extends. There is no finding by the Trial Court that the petitioner is not a schedule tribe in the district for which the Trial Court is constituted. The decision of the Apex Court in *Kyntiew Akor Suchiang (Supra)* does not indicate that the residential address of the parties shall be the sole basis of consideration for deciding whether a party belongs to the schedule tribe community in a district or not.

5. The impugned order dated 06.09.2023 projects that the Trial Court has rejected and returned back the plaint to the plaintiff. A plaint cannot be both rejected and returned at the same time. These two actions have distinct purposes under law. The action of the Trial Court in rejecting and at the same time returning the plaint shows that the learned Trial Court was not sure as to whether the suit filed by the petitioner was not entertainable because of the reasons stated in Order 7 rule 11 CPC or for the reason that the Trial Court did not have jurisdiction to try the suit. The impugned order, as such, cannot stand in the eye of law.

6. In view of the above, the impugned order dated 06.09.2023 passed by the Additional Judge, Additional District Council Court, Jowai in Title Suit No.9 of 2021 is hereby set aside. The matter is remanded back to the Trial Court for taking a fresh decision on the application filed



by the respondent seeking rejection of the plaint in accordance with law and in the light of observation made above. The learned Trial Court shall notify the parties before the matter is taken up next and afford them an opportunity of hearing before a fresh decision is taken in the matter.

7. The revision petition stands disposed of in the aforesaid terms.

Judge

Meghalaya
16.05.2025
"Shrity,PS"